

### **REMARKS**

Claims 9 to 16 are pending in the present application.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

As to paragraph entitled "Claim Rejections – 35 USC § 101," no claims were rejected under 35 U.S.C. § 101.

Claim 11 was objected to as depending from a rejected claim, but was indicated as containing allowable subject matter. While the rejection of the base claim may not be agreed with, to facilitate matters, claim 11 has been rewritten as an independent claim by including the features of claim 9. Accordingly, claim 11 is allowable. It is therefore respectfully requested that the objection be withdrawn.

Claims 9, 10, and 12 were rejected under 35 USC § 102(b) as anticipated by Von Kaenel et al., *A Voltage Reduction Technique for Battery-Operated Systems*, IEEE Journal of Solid-State Circuits, Oct. 1990, at 1136.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

Claim 9 is to a "driver device for a voltage-controlled oscillator," which includes

the features of “an unstable voltage source,” “a voltage regulator,” and “a driver to generate a control voltage for the oscillator,” and “a feedback loop to control the driver as a function of an output signal of the oscillator” in which “the voltage regulator supplies the feedback loop with operating voltage” and in which “the feedback loop compensates for voltage fluctuations of the voltage source with the aid of the driver.”

The Von Kaenel reference does not identically disclose (or even suggest) an **unstable** voltage source. Therefore, the Von Kaenel reference also does not disclose or suggest that a feedback loop **compensates for voltage fluctuations** of a voltage source with the aid of a driver.

In addition, the Von Kaenel reference does not identically disclose (or suggest) “a voltage regulator.” The Office Action cites the label “Vred,” appearing in Figures 1 and 3 of the Von Kaenel reference for this feature. *Office Action* at 2. However, it appears that “Vred” is not a component at all but simply a label for “reduced voltage,” which the reference also appears to label “Regulated Voltage.” However, the Von Kaenel reference does not identically disclose (or suggest) a driver device for a voltage-controlled oscillator which includes a voltage regulator. Therefore, the Von Kaenel reference also does not identically disclose (or even suggest) that a voltage regulator supplies a feedback loop with operating voltage, since the Von Kaenel reference does not disclose or even suggest a voltage regulator at all.

Accordingly, claim 9 is allowable, as are its dependent claims 10 and 12 to 15.

Claims 13 to 15 were rejected under 35 U.S.C. § 103(a) as unpatentable over Von Kaenel et al., *A Voltage Reduction Technique for Battery-Operated Systems*, IEEE Journal of Solid-State Circuits, Oct. 1990, at 1136, in view of Ito et al., citation unknown.

In rejecting a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The Office Action does not provide any citation for the Ito reference, and the Applicants have been unable to identify the intended reference. Claims 13 to 15 depend from claim 9, and are therefore allowable for the same reasons as claim 9, since the secondary Ito reference does not cure – and is not asserted to cure – the critical deficiencies of the primary reference.

Claim 16 was rejected under 35 U.S.C. § 103(a) as unpatentable over Von Kaenel et al., *A Voltage Reduction Technique for Battery-Operated Systems*, IEEE Journal of Solid-State Circuits, Oct. 1990, at 1136, in view of Kunert, U.S. Patent No. 6,621,449.

Claim 16 is to a “radar system” which includes the features of “a microwave oscillator for a motor vehicle, including a driver device, which has the vehicle battery as a voltage source,” in which “the driver device” includes “an unstable voltage source,” “a voltage regulator,” and in which “the voltage regulator supplies the feedback loop with operating voltage,” and in which “the feedback loop compensates for voltage fluctuations of the voltage source with the aid of the driver.”

As explained above the Von Kaenel reference does not disclose or even suggest a voltage regulator which supplies a feedback loop with operating voltage. Also, as explained above, the Von Kaenel reference does not disclose or even suggest an **unstable** voltage source, or a feedback loop that **compensates for voltage fluctuations** of the voltage source. Since the Kunert reference does not (and is not asserted to) disclose or even suggest these features, the combination (the properness of which is not conceded) of the Von Kaenel reference and the Kunert reference does not and cannot disclose or even suggest all of the features of claim 16. Therefore, claim 16 is allowable.

In sum, claims 9 to 16 are allowable.

**CONCLUSION**

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the objection and rejections be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

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By: 

Gerard A. Messina  
(Reg. No. 35,952)

KENYON & KENYON LLP  
One Broadway  
New York, New York 10004  
(212) 425-7200

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